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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,898	10/24/2000	Donald F. Gordon	19880-000610	3377
26291	7590	02/28/2005	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			LEE, Y YOUNG	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/695,898	GORDON, DONALD F.
	<b>Examiner</b>	<b>Art Unit</b>
	Y. Lee	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 February 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-15 and 17-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-15 and 17-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/18/05 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 10, 12-15, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yang et al (6,005,620) for the same reasons as set forth in Section 2 of the previous office action, dated 6/10/04.

Yang et al, in Figure 4, discloses a statistical multiplexer for live and pre-compressed video that is the same system and method for inserting a second compressed video stream 52 into a first compressed video stream 30 as specified in claims 1-8, 10, 12-15, and 17-20 of the present invention, comprising receiving a first

compressed video stream 30; determining a first encoding profile (40, 42) for the first compressed video stream 30; encoding a second video 32 in accordance with a particular encoding scheme 76 and further with a profile similar to the profile 42 of the first compressed video stream 30 to generate the second compressed video stream 52 having a second encoding profile which approximately matches the first encoding profile; controlling the encoding 52 of the second video 32 based at least in part on the profile 42 of the first compressed video stream 30; and inserting 34 the second compressed video stream 52 into the first compressed video stream 30.

With respect to claims 2-8, 10, and 12-20, Yang et al also discloses determining the second encoding profile (42, 78) for the second compressed video stream; wherein the encoding of the second video 32 is controlled such that the second encoding profile 42 approximately matches the first encoding profile 40 at approximately a point in time when the second compressed video stream 52 is inserted into the first compressed video stream 30; the encoding of the second video 32 is further controlled such that the second encoding profile 42 approximately matches the first encoding profile 42 at approximately a point in time when the first compressed video stream 30 is inserted back into the second compressed video stream 52; initially multiplexing the first compressed video stream 30 as an output video stream 36; multiplexing the second compressed video stream 52 as the output video stream 38 at a point in time when the inserting 34 is to be achieved; splicing the second compressed video stream 52 to the first compressed video stream 30; pausing the first compressed video stream 30 for the time during which the second compressed video stream 52 is multiplexed as the output

video stream 38; receiving a second control signal 42 indicative of a second time period within which the inserting is to be performed and initiating the encoding of the second video 32 in response to receiving the second control signal 42; buffering the second compressed video stream 52 prior to the inserting; wherein the first encoding profile 42 includes bit rate information 40 related to the first compressed video stream 30; the first encoding profile further includes video buffering verifier buffer information 86 used for the encoding; and the second video 32 is encoded in accordance with an MPEG encoding scheme.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al for the same reasons as set forth in Section 4 of the previous office action, dated 8/14/03.

***Response to Arguments***

6. Applicant's arguments filed 2/15/05 have been fully considered but they are not persuasive. Applicant asserts on page 7 of the Remarks that Yang et al fails to disclose encoding a second video to have a profile that approximately matches the first stream. However, as specified in Section 3 of the previous office action, Figure 4 of Yang et al discloses that encoding 52 of a second video stream 32 is in accordance to the profile

40 of the first compressed video stream to produce a spliced stream 34. That is, the video streams are approximately matched in terms of bit rates, compression factors, etc.

Applicant asserts on page 8 of the Remarks that Yang et al also fails to disclose splicing two video streams. However, according to applicant's own definition in line 5 on page 10 of the Specification, the word "splicing" is merely defined as "inserting". Therefore, one of ordinary skill in the art would have had no difficulty in recognizing that the multiplexing means 34 of Yang et al is performing an inserting function that is consistent with applicant's intended meaning.

Furthermore, even applicant's original claimed invention (e.g. claim 14, lines 11-12) specifically claims that it is a multiplexer that is used to perform the common splicing function.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y. Lee whose telephone number is (703) 308-7584. The examiner can normally be reached on (703) 308-7584.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Y. Lee  
Primary Examiner  
Art Unit 2613

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